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# Transportation and Motor Vehicles

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# Transportation and Motor Vehicles

## Transportation and Motor Vehicles; abandoned vehicles--removal charges

Vehicle Code § 22523 (amended).

SB 2006 (Robbins); 1990 STAT. Ch. 111

Sponsor: California Tow Truck Association

Existing law provides that any person who abandons<sup>1</sup> a vehicle<sup>2</sup> on a highway<sup>3</sup> or on public or private land, without the consent of the owner, must pay a minimum fine of \$100 and provide proof to the court that the vehicle's removal and disposition costs have been paid.<sup>4</sup> Removal and disposition costs, under existing law, may not exceed the costs incurred for towing and seven days storage.<sup>5</sup> Chapter 111 eliminates the maximum limitations on the costs that may be incurred if the registered or

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1. See CAL. VEH. CODE § 22669 (West Supp. 1990) (providing for the removal of abandoned vehicles).

2. See *id.* § 670 (West 1987) (definition of vehicle).

3. See *id.* § 360 (definition of highway).

4. *Id.* § 22523(b)-(c) (amended by Chapter 111).

5. *Id.* § 22523(e) (amended by Chapter 111).

legal owner files a Declaration of Opposition form<sup>6</sup> with the lienholder<sup>7</sup> of the vehicle.<sup>8</sup>

*FPC*  
*JLR*

## **Transportation and Motor Vehicles; carrier operating permits, transportation of food products**

Public Utilities Code §§ 215.6, 215.7, 1071.5, 3558, 3587, 3588, 3595, 3595.5, 4848.5 (new); §§ 3584, 3593 (amended); Vehicle Code § 34516 (new).  
AB 2568 (Moore); 1990 STAT. Ch. 1685

Existing law provides that all livestock,<sup>1</sup> agricultural,<sup>2</sup> tank truck,<sup>3</sup> and vacuum carriers<sup>4</sup> must furnish identification and financial information to the Public Utility Commission (PUC) to obtain an operating permit.<sup>5</sup> Chapter 1685 requires that, in addition to current standards, the applicant meet all of the following

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6. *Id.* § 22851.8 (West Supp. 1990). The lienholder must, within 15 days following the date of possession of the vehicle, make a request for the names and addresses of all persons having an interest in the vehicle. *Id.* § 11851.8(a). Upon receipt of the names and addresses, the lienholder must immediately provide a Notice of Intent to Dispose form and Declaration of Opposition form to the owner. *Id.* § 11851.8(b). The owner of the vehicle must return the Declaration of Opposition form to the lienholder within ten days of receipt of notice to prevent the lienholder from disposing of the vehicle. *Id.* § 11851.8(c).

7. *See id.* § 22851.12 (setting forth the recovery of costs by the lienholder).

8. *Id.* § 22523(e) (amended by Chapter 111). *Cf.* CONN. GEN. STAT. ANN. § 14-150(a) (West 1989) (specifying that a person who abandons a vehicle on a highway or on public or private land without the owner's consent must be fined at least \$85); MINN. STAT. § 168B.07 (1989) (allowing the owner or lienholder of an abandoned vehicle to reclaim the vehicle from the government's custody after all towing and storage charges are paid); W. VA. CODE § 17-24-3(b) (1989) (the penalty for a junked motor vehicle may be a fine of up to \$500, imprisonment in the county jail for up to six months, or both).

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1. *See* CAL. PUB. UTIL. CODE § 3521 (West 1975) (definition of livestock carrier).

2. *See id.* § 3525 (West Supp. 1990) (definition of agricultural carrier).

3. *See id.* § 3522 (definition of tank truck).

4. *See id.* § 3523 (definition of vacuum carrier).

5. *Id.* §§ 3584, 3593 (amended by Chapter 1685).

requirements in order to be granted an operating permit: (1) Be capable of financially and organizationally complying with California Highway Patrol highway safety regulations; (2) observe state or federal hours of service regulations;<sup>6</sup> (3) maintain a preventative maintenance program;<sup>7</sup> (4) maintain a system for checking driving records of drivers at regular intervals; (5) provide safety training for drivers; (6) maintain vehicles in safe operating condition;<sup>8</sup> (7) file workers' compensation insurance coverage certificates;<sup>9</sup> and (8) provide a location where the PUC can find all the documents supporting compliance with the new requirements.<sup>10</sup> Furthermore, Chapter 1685 imposes upon the carriers an obligation to annually provide the PUC a list of all vehicles used for transportation, and allows the PUC to impose penalties if the carrier fails to insure any of the listed vehicles.<sup>11</sup>

Chapter 1685 prohibits any carrier<sup>12</sup> from using a refrigerated motor vehicle,<sup>13</sup> tank truck, dry van or other motor vehicle for transporting food for human consumption<sup>14</sup> after the vehicle has been used to transport solid waste<sup>15</sup> destined for land fills, or any

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6. See CAL. VEH. CODE § 34501.2 (West 1985) (hours of service requirements). The PUC may certify compliance with this requirement based on a declaration of intent and ability to comply. CAL. PUB. UTIL. CODE §§ 3584(c), 3593(c) (amended by Chapter 1685).

7. See 13 CAL. CODE REGS. 1232 (1988) (California Highway Patrol preventative maintenance regulations).

8. See CAL. PUB. UTIL. CODE §§ 3584(c), 3593(c) (amended by Chapter 1685) (the PUC may certify compliance with this requirement based on a declaration of intent and ability to comply).

9. See *id.* § 460.5 (West Supp. 1990) (explanation of workers' compensation certificate requirements).

10. *Id.* §§ 3584(b)(8), 3593(b)(8) (amended by Chapter 1685). Chapter 1685 also requires the PUC to provide quarterly progress reports to the legislature on the implementation of this section. *Id.* §§ 3584(d), 3593(d) (amended by Chapter 1685).

11. *Id.* §§ 3587, 3595 (enacted by Chapter 1685). See *id.* §§ 3587(b) (enacted by Chapter 1685) (the allowable penalties are suspension of permit, fine, or both for the first violation; suspension or revocation of permit, fine, or both for the second).

12. Under Chapter 1685, a carrier includes any of the following: highway common carrier, shipper, consignee, consignor, highway permit carrier, livestock carrier, agricultural carrier, vacuum truck, tank truck, motor transportation broker, and person. *Id.* §§ 1071.5, 3558, 3588, 3595.5, 4848.5 (enacted by Chapter 1685); CAL. VEH. CODE § 34516 (enacted by Chapter 1685). See CAL. PUB. UTIL. CODE §§ 3513 (West Supp 1990) (definition of highway common carrier); 3515 (definition of highway permit carrier); 4808 (definition of motor transportation broker); 4810 (definition of person).

13. See CAL. PUB. UTIL. CODE § 3510 (West 1975) (definition of motor vehicle).

14. See *id.* § 215.6 (enacted by Chapter 1685) (definition of food products for human consumption).

15. See CAL. PUB. RES. CODE § 40191 (West Supp. 1990) (definition of solid waste).

substance designated by the U.S. Secretary of Transportation as solid waste or hazardous material that would be dangerous to food.<sup>16</sup> The PUC may suspend or revoke a carrier's operating authority for any violation of this provision of Chapter 1685.<sup>17</sup> Additionally, any person who violates this provision is guilty of a misdemeanor.<sup>18</sup>

*CLL*

## **Transportation and Motor Vehicles; definition of pedestrian**

Vehicle Code §§ 4011, 21114.6 (repealed); §§ 415, 467, (amended).

AB 2953 (Pringle); 1990 STAT. Ch. 400

Existing law defines a pedestrian as a person traveling on foot or using transportation driven by human power, other than a bicycle.<sup>1</sup> Chapter 400 expands the definition of a pedestrian to include persons operating self-propelled wheelchairs, invalid tricycles, or motorized quadricycles.<sup>2</sup> Chapter 400's expansion of

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16. CAL. PUB. UTIL. CODE §§ 1071.5, 3558, 3588, 3595.5, 4848.5 (enacted by Chapter 1685); CAL. VEH. CODE § 34516 (enacted by Chapter 1685).

17. CAL. PUB. UTIL. CODE §§ 1071.5, 3558, 3588, 3595.5, 4848.5 (enacted by Chapter 1685). A person or corporation charged with violating this provision may avoid liability by showing that the violation did not endanger the public health. *Id.* §§ 1071.5(d), 3558(d), 3588(d), 3595.5(d), 4848.5(d) (enacted by Chapter 1685).

18. CAL. VEH. CODE § 34516(b) (enacted by Chapter 1685). The legislature, in enacting Chapter 1685, finds that significant safeguards need to be taken to ensure that food is not contaminated by the vehicles in which it is transported. 1990 Cal. Stat. ch. 1685, sec. 1.5, at \_\_\_\_.

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1. CAL. VEH. CODE § 467(a) (amended by Chapter 400).

2. *Id.* § 467(b) (amended by Chapter 400). The person operating the self-propelled wheelchair, convalescent tricycle, or motorized quadricycle must be physically unable to move as a pedestrian as defined in California Vehicle Code section 467(a). *Id.* Self-propelled wheelchairs, convalescent tricycles, and motorized quadricycles do not come within the definition of a motor vehicle. *Id.* § 415 (amended by Chapter 400).

this definition subjects the persons operating any of the listed vehicles to liability for violating any pedestrian law.<sup>3</sup>

GJK

## **Transportation and Motor Vehicles; drivers' license suspension--vandalism**

Vehicle Code § 1803 (amended); § 13202.6 (new); § 13202.5 (amended).

SB 1977 (Kopp); 1990 STAT. Ch. 712

SB 1756 (Lockyer); 1990 STAT. Ch. 1696

Existing law requires a court to restrict, suspend, or delay the driving privilege of a person between the ages of thirteen and twenty-one who has been convicted of an alcohol or controlled substance offense.<sup>1</sup> Chapter 1696 requires the court to suspend or delay the driving privileges of persons between thirteen and twenty-one years of age who are convicted of offenses relating to alcohol and controlled substances while operating a vehicle, bicycle or vessel.<sup>2</sup> Chapter 712 provides that persons who are thirteen years of age or older and who have been convicted of vandalism<sup>3</sup>

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3. See *id.* §§ 21950-21969 (West Supp. 1990) (rights and duties of pedestrians).

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1. CAL. VEH. CODE § 13202.5(a) (West Supp. 1990). Offenses subject to this section include: California Business and Professions Code section 25658, prohibiting the purchase of alcoholic beverage by a person under the age of 21; California Business and Professions Code section 25661, prohibiting possession of false identification stating that a person under 21 years of age is in fact 21; California Business and Professions Code section 25662, prohibiting possession of an alcoholic beverage by a person under the age of 21 in a public place or on a street or highway; California Health and Safety Code section 11350, prohibiting possession of a controlled substance without prescription; California Vehicle Code section 23152, prohibiting driving under the influence of alcohol or a controlled substance. *Id.*

2. *Id.* § 13202.5(d) (amended by Chapter 1696). This requirement applies to mechanically operated vessels as specified in California Harbors and Navigation Code section 655 but not to the manipulation of water skis, aquaplanes, or similar devices. *Id.*

3. See CAL. PENAL CODE § 594 (West Supp. 1990) (person is guilty of vandalism where he or she has maliciously defaced with paint or other liquid, damaged, or destroyed any real or personal property which he or she does not own).

may have their driving privileges suspended, delayed, or restricted for one year.<sup>4</sup> Chapter 712 also permits the reduction of the suspension or delay if the person performs community service.<sup>5</sup>

*GJK*

## **Transportation and Motor Vehicles; driving certificates and endorsements**

Health and Safety Code § 25168 (repealed); Vehicle Code §§ 464, 2427, 12517.1, 12517.2, 12517.3, 12517.4, 12521, 12524, 12525, 12527, 13370, 13371, 13372, 13373, 13374, 13375, 13376, 14100.1 (new); § 12804.9 (amended, repealed and new); § 12519.5 (amended and repealed); §§ 1668, 1804, 1808.1, 2512, 12501, 12502, 12517, 12519, 12523, 12523.5, 12804, 12804.2, 12806.5, 12810.5, 15210, 15242, 15250, 15250.5, 15275, 15278, 36101 (amended); §§ 3100, 3101, 3102, 3103, 3104, 12517.5, 12520, 12520.5, 12520.7, 12526, 12804.1, 12804.3 (repealed); §§ 12521, 12524, 12525, 13369 (repealed and new).

SB 1510 (Russell); 1990 STAT. Ch. 1360

AB 3636 (Katz); 1990 STAT. Ch. 741

Under existing law, a person must have a certificate or endorsement issued by the Department of Motor Vehicles (DMV),

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4. CAL. VEH. CODE § 13202.6(a)(1) (enacted by Chapter 712). If the person possesses a license, the court may suspend the license, or the court may delay the issuance of a license if the person does not possess a license. *Id.* If there are no further convictions within a 12 month period, the person may petition the court to modify the penalty. *Id.* The court must suspend the person's license or delay eligibility for an additional year for each successive conviction. *Id.* In determining whether to suspend or delay a driver's license, the court must consider any personal or family hardship that requires the person to have a drivers license. *Id.* § 13202.6(c) (enacted by Chapter 712). Penalties imposed under Chapter 712 are in addition to any others imposed under California Penal Code section 594 relating to vandalism. *Id.* § 13202.6(d) (enacted by Chapter 712).

5. *Id.* § 13202.6(a)(2) (enacted by Chapter 712). The period of suspension or delay must be reduced by one day for each hour of community service performed. *Id.* Community service entails cleaning graffiti from public property. *Id.*

to operate certain vehicles.<sup>1</sup> Chapter 1360 establishes conditions for the issuance, renewal, or revocation for the following endorsements and certificates: (1) School bus;<sup>2</sup> (2) school pupil activity bus;<sup>3</sup> (3) youth bus;<sup>4</sup> (4) general public paratransit vehicle;<sup>5</sup> (5) farm labor vehicle;<sup>6</sup> (6) passenger transport vehicle;<sup>7</sup> and (8) hazardous materials vehicle.<sup>8</sup> Chapter 1360 sets forth the requirements for obtaining<sup>9</sup> and retaining an ambulance driver certificate.<sup>10</sup> Additionally, Chapter 1360 revises the conditions for which the DMV must deny or revoke a certificate for a school bus, school pupil activity bus, youth bus, or general public paratransit vehicle.<sup>11</sup> Under Chapter 1360, mechanics or other maintenance

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1. See CAL. VEH. CODE §§ 15278(a) (amended by Chapter 1360) (endorsements required for double trailers, buses, farm labor vehicles, general public paratransit vehicles, and tank vehicles); 12517(a), 12517(b), 12523(a), 12523.5(a), 12519(a), 12519.5(a), 12524(a) (amended by Chapter 1360) (certificates required to operate a school bus, school pupil activity bus, youth bus, general public paratransit vehicle, and farm labor vehicles, tour buses, and radioactive materials).

2. See *id.* § 545 (West Supp. 1990) (definition of school bus).

3. See *id.* § 546 (West Supp. 1990) (definition of school pupil activity bus).

4. See *id.* § 680 (definition of youth bus).

5. See *id.* § 336 (definition of general public paratransit vehicle).

6. See *id.* § 322 (definition of farm labor vehicle).

7. See *id.* § 464 (enacted by Chapter 1360) (definition of passenger transportation vehicle).

8. *Id.* § 13369(a), (b) (enacted by Chapter 1360). The DMV must deny or revoke a certificate for any of the following reasons: (1) Having the driving privilege suspended, revoked, or put on probation for reasons involving unsafe operation of a motor vehicle; (2) causing or contributing to three accidents within one year, or one accident resulting in a fatality or serious injury within two years; (3) knowingly making a false statement or concealing a material fact on the application; (4) demonstrating irrational behavior; (5) abusing alcohol or drugs; or (6) failing to meet minimum medical standards. *Id.* See *id.* § 353 (West 1987) (definition of hazardous material).

9. See *id.* § 12527(a) (enacted by Chapter 1360) (applicant must be at least 18 years of age, hold a valid California driver's license, possess a valid ambulance driver certificate, and successfully complete ambulance training).

10. *Id.* § 13372 (enacted by Chapter 1360) (setting forth the conditions under which the DMV must deny an ambulance driver certificate and situations where the DMV has discretion to deny a certificate). See *id.* § 13374 (enacted by Chapter 1360) (providing the procedure to be followed when requesting a hearing).

11. *Id.* § 13370(a) (enacted by Chapter 1360). Revocation or denial is mandated if the applicant or certificate holder has been convicted of a sex offense, failed to meet the requirement for the certificate's issuance, or has been convicted of a marijuana-related offense. *Id.* See *id.* § 13376 (enacted by Chapter 741) (permitting the DMV to temporarily suspend or withhold issuance of a certificate, if the holder or applicant has been arrested or charged with a sex offense). See also *id.* § 13376(b) (enacted by Chapter 1360) (listing the conditions in which the Department has discretion to deny or revoke a certificate).



personnel do not need a certificate to operate specified vehicles,<sup>12</sup> provided the vehicle is driven within the course of employment and public passengers or pupils are not transported.<sup>13</sup>

Chapter 1360 allows persons employed in agricultural operations to transport agricultural products, farm machinery, or supplies to or from a farm without an endorsement.<sup>14</sup> Chapter 1360 establishes that a person who meets the training requirements set by the DMV, but who does not meet the medical requirements, does not qualify to transport agricultural hazardous materials.<sup>15</sup>

Under existing law, the DMV may provide fingerprint service to the general public.<sup>16</sup> Chapter 1360 requires applicants for an original certificate to drive a school bus, school pupil activity bus, youth bus, general public paratransit vehicle, or ambulance to be fingerprinted by the DMV.<sup>17</sup> Chapter 1360 further specifies that when fingerprints are required for a license or certificate, the applicant is responsible for reimbursing the DMV for fingerprinting costs.<sup>18</sup>

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12. *Id.* § 12525 (enacted by Chapter 1360) (the specified vehicles include an ambulance, school bus, youth bus, farm labor vehicle, or general public paratransit vehicle).

13. *Id.*

14. *Id.* § 12804.2(a)(1) (amended by Chapter 1360) (setting forth that the transporting vehicle may not be one used in common or contract motor carriage).

15. *Id.* § 12804.2(a)(5) (enacted by Chapter 1360).

16. *Id.* § 1668(a) (amended by Chapter 1360) (imposing a minimum five dollar fee for each person fingerprinted).

17. *Id.* § 12517.3(a), (b) (enacted by Chapter 1360).

18. *Id.* §§ 1668(b) (enacted by Chapter 1360).

## **Transportation and Motor Vehicles; driving offenses- -vessels and other water devices**

Harbors and Navigation Code §§ 655.6 (repealed and new); 655 (amended); 668.1 (new); Penal Code §§ 191.5, 192.5 (amended, repealed, and new); Vehicle Code § 1803 (amended).

SB 1808 (Leonard); 1990 STAT. Ch. 588

*(Penal Code Sections 191.5 and 192.5 effective January 1, 1992)*

AB 3137 (Hansen); 1990 STAT. Ch. 1698

Support: Mothers Against Drunk Driving, Department of Boating and Waterways, Department of Parks and Recreation, Attorney General of California, California Correctional Peace Officers' Association, Northern California Marine Association, Recreational Boaters of California, Southern California Marine Association, Marina Recreational Association.

Under existing law, a person may not operate a vessel,<sup>1</sup> water ski, aquaplane, or similar device while under the influence of drugs, alcohol, or both.<sup>2</sup> Further, it is illegal to perform the above activities with a blood alcohol concentration of 0.10% or more.<sup>3</sup>

Chapter 588 reduces the allowable blood alcohol concentration limit from 0.10% to 0.08%.<sup>4</sup> Additionally, Chapter 588 prohibits

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1. See CAL. HARB. & NAV. CODE § 651(c) (West 1990) (definition of vessel).

2. *Id.* § 655(b) (amended by Chapter 588). A peace officer, upon reasonable suspicion of a person's boating while under the influence of alcohol, may request the person to submit to a chemical test. *Id.* § 655.1(b) (West Supp. 1990). The arrestee must be informed that refusal or failure to complete the test may be used against the arrestee in court, and that the court may use that evidence as cause for increased penalties. *Id.*

3. *Id.* § 655(e) (amended by Chapter 588). Effective Jan. 1, 1992, the limit is 0.04% for nonrecreational vessel operators. *Id.* § 655(d) (amended by Chapter 588). See *id.* § 655(a) (amended by Chapter 588) (prohibiting vessel operation in a reckless or negligent manner). See also *People v. Armitage*, 194 Cal. App. 3d 405, 419, 239 Cal. Rptr. 515, 523-24 (1987) (affirming felony drunk boating conviction for death caused by intoxicated defendant operating vessel at an unsafe speed and in a reckless and negligent manner).

4. *Id.* § 655(e) (amended by Chapter 588). A blood alcohol content of 0.08% or more as determined by a chemical test of the person's blood, breath, or urine within three hours after the vessel's operation creates a rebuttable presumption that the person was under the influence of alcohol while operating the vessel. *Id.* § 655(f), (g) (amended by Chapter 588). Cf. CAL. VEH. CODE § 23155(a)(3) (West Supp. 1990) (blood alcohol content of 0.08% while operating a motor vehicle

the usage of certain water devices<sup>5</sup> by persons under eighteen years of age with a blood alcohol concentration of 0.05% or more,<sup>6</sup> and requires violators to participate in an alcohol education or community service program.<sup>7</sup>

Existing law prohibits the negligent or reckless operation of a vessel, water ski, aquaplane, or similar device in a manner which endangers the life, limb, or property of any person.<sup>8</sup> Existing law also prohibits the operation of these devices while under the influence of drugs or alcohol.<sup>9</sup>

Under Chapter 1698, the court may require a person convicted of any of these offenses to attend and pass a boating safety course.<sup>10</sup> The court must also order the offender to attend and

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creates a presumption of impairment); MICH. COMP. LAWS ANN. § 281.1073a(1)(b) (West 1989) (blood alcohol concentration between 0.07% and 0.10% while operating a vessel creates a presumption of impairment); UTAH CODE ANN. § 73-18-12.2(1),(2) (1989) (blood alcohol concentration limit is 0.08%; however, the chemical test must be performed within two hours of vessel operation). *But cf.* NEV. REV. STAT. ANN. § 488.207.1(b) (1989); N.J. STAT. ANN. § 12:7-54.b. (West Supp. 1990) (blood alcohol content between 0.05% and 0.10% does not create presumption of impairment, but can be used as evidence in determining guilt or innocence).

5. *See* CAL. HARB. & NAV. CODE § 655.6(a) (enacted by Chapter 588) (prohibiting operation of a motorboat). *See also id.* (prohibiting operation of any motorized recreational vessel).

6. *Id.* Violation of this section is an infraction, and is punishable by fines of up to \$100 for the first offense, \$200 for the second offense within one year, or \$250 for the third offense within one year of both prior offenses. *Id.* § 655.6(d) (enacted by Chapter 588). *Cf.* CAL. VEH. CODE §§ 23140 (West Supp. 1990) (prohibiting persons under 18 years of age with a blood alcohol concentration of 0.05% or more from operating a motor vehicle); 40000.28 (West 1985) (characterizing the third motor vehicle infraction within a 12-month period as a misdemeanor).

7. CAL. HARB. & NAV. CODE § 655.6(d) (enacted by Chapter 588). The programs are administered pursuant to California Vehicle Code section 23141 and require a minor's participation barring financial limitations, lack of appropriate programs, or other exceptional circumstances. *Id.*

8. *Id.* § 655(a) (amended by Chapter 588).

9. *Id.* § 655(b) (amended by Chapter 588). Operation of any vessel or manipulation of any water skis, aquaplane, or similar device by a person with a blood alcohol content of 0.10% or more is prohibited. *Id.* § 655(c) (amended by Chapter 588). Effective January 1, 1992, the blood alcohol standard will be 0.04% for operators of non-recreational vessels. *Id.* § 655(d) (amended by Chapter 588).

10. *Id.* § 668.1 (enacted by Chapter 1698). Previously, boating safety offenses were punishable only by fine or imprisonment in the county jail. *Id.* § 668. *Cf.* CAL. VEH. CODE § 42005 (West Supp. 1990) (allowing a trial court to order a person convicted of a traffic violation to attend traffic violator school).

pass a boating safety course upon a second offense within seven years.<sup>11</sup>

Existing law requires a court clerk to send a record of the conviction for certain vehicular offenses to the Department of Motor Vehicles.<sup>12</sup> Chapter 1698 extends this requirement to certain offenses<sup>13</sup> committed while operating a vessel.<sup>14</sup>

*FPC*

## **Transportation and Motor Vehicles; habitual traffic offenders**

Penal Code § 193.7 (new); Vehicle Code §§ 13350, 13550, 14601.3, 14610, 23175, 23190 (amended).  
AB 1648 (Leslie); 1990 STAT. Ch. 44

Under existing law, persons convicted of more than two driving under the influence (DUI) offenses within seven years are designated habitual traffic offenders for a period of three years.<sup>1</sup> The Department of Motor Vehicles may suspend the driver's

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11. CAL. HARB. & NAV. CODE § 668.1(b) (enacted by Chapter 1698). Cf. CONN. GEN. STAT. ANN. § 8-740(a) (West 1989), MD. NAT. RES. CODE ANN. § 8-740(a) (1988) (requiring boating safety course completion upon second violation within two years).

12. CAL. VEH. CODE § 1803(a) (West Supp. 1990) (requiring the abstract of the record to be prepared within 10 days after the conviction of any vehicular offense, usage or possession of a controlled substance, or felony offense with a motor vehicle).

13. See CAL. HARB. & NAV. CODE §§ 655(b)-(f) (amended by Chapter 588), 655.2, 658, 658.5 (West Supp. 1990) (enumeration of offenses).

14. CAL. VEH. CODE § 1803 (amended by Chapter 1698).

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1. CAL. VEH. CODE § 23170 (West Supp. 1990). Persons are also defined as habitual traffic offenders if they are convicted of a DUI which proximately causes bodily injury under California Vehicle Code section 23152, if that conviction occurs within seven years of two convictions of the following offenses: (1) Reckless driving under California Vehicle Code section 23103; (2) DUI which proximately causes bodily injury under California Vehicle Code section 23152; (3) DUI which proximately causes injury under California Vehicle Code section 23153. *Id.* Any person convicted of the above violations may be punished by imprisonment in the state prison or county jail for 120 days to one year and fined \$390 to \$5000. *Id.* § 23185. See *id.* § 23175 (amended by Chapter 44) (penalty for convictions of three or more of the habitual traffic offender violations).

license of a person designated a habitual traffic offender.<sup>2</sup> Chapter 44 expands the definition of “habitual traffic offender” to include drivers involved in DUI offenses which resulted in bodily injuries or vehicular manslaughter.<sup>3</sup> Under existing law, after a conviction of one of these offenses, the court must require the driver to sign an affidavit attesting that the driver understands that the driver’s license has been revoked and that the driver is now a habitual traffic offender.<sup>4</sup> Chapter 44 extends this requirement to include the habitual traffic offenders involved in DUI offenses resulting in bodily injury or vehicular manslaughter.<sup>5</sup>

*GJK*

## **Transportation and Motor Vehicles; highways--snow conditions**

Vehicle Code § 22510 (repealed and new); §§ 17300, 22511.7 (amended).

AB 3398 (Waters); 1990 STAT. Ch. 692

Prior law authorized the Department of Transportation (DOT) to post signs prohibiting parking when snow removal restricted the width of a highway.<sup>1</sup> Chapter 692 grants local authorities<sup>2</sup> the power to prohibit or restrict parking for the purpose of snow

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2. *Id.* §§ 13350.5, 13352.2, 13352.3 (West 1987).

3. CAL. PENAL CODE § 193.7 (enacted by Chapter 44).

4. CAL. VEH. CODE § 13350 (amended by Chapter 44).

5. *Id.* § 13350 (amended by Chapter 44) (specifying that these provisions of existing law also apply to those persons who violate California Penal Code section 193.7 which provides that anyone who commits vehicular manslaughter under California Penal Code section 192(c)(3) within seven years of two or more separate violations and convictions of section 23103, 23152, 23153 or any combination of them is designated a habitual traffic offender.). Chapter 44 extends the affidavit attestation provision of California Vehicle Code section 13350 to habitual traffic offenders who had temporary permits. *Id.*

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1. 1974 Cal. Stat. ch. 545, sec. 209, at 1326 (amending CAL. VEH. CODE § 22510) (repealed and enacted by Chapter 692).

2. *See* CAL. VEH. CODE § 385 (West 1987) (definition of local authorities).

removal within their jurisdiction.<sup>3</sup> The DOT must approve any local parking restriction that affects a state highway.<sup>4</sup> Chapter 692 also authorizes the DOT to restrict the parking or standing of vehicles on state highways in order to remove snow.<sup>5</sup>

SLB

## **Transportation and Motor Vehicles; identification cards and drivers' licenses--manufacture or sale**

Vehicle Code §§ 13004.1, 14610.1 (new).  
SB 1873 (Morgan); 1990 STAT. Ch. 170

Existing law prohibits certain acts<sup>1</sup> relating to the use of identification cards<sup>2</sup> and drivers' licenses<sup>3</sup> issued by the Department of Motor Vehicles (DMV).<sup>4</sup> Chapter 170 specifically prohibits the manufacture or sale of identification documents which

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3. *Id.* § 22510(a) (enacted by Chapter 692) (requiring local authorities to adhere to specifications regarding the size and placement of signs restricting parking).

4. *Id.* § 22510(b) (enacted by Chapter 692). *See* CAL. STS. & HIGH. CODE § 24 (West 1990) (definition of state highway).

5. CAL. VEH. CODE § 22510(c) (enacted by Chapter 692). The restrictions are not effective until the DOT posts signs meeting department specifications that signal the restriction. *Id.*

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1. *See* CAL. VEH. CODE §§ 13004, 14610 (West 1987) (listing unlawful acts relating to identification cards and drivers' licenses, including the use of a fictitious or fraudulent card or license, and the duplication or reproduction of such a document so that it might be mistaken for a legitimate one).

2. *See id.* §§ 13000 (relating to the issuance and application for an identification card); 13005 (West Supp. 1990) (setting forth the requirement for an identification card's content and form).

3. *See id.* § 310 (West 1987) (definition of driver's license).

4. *Id.* §§ 13004, 14610.

are substantially similar in size and form to the DMV's cards and licenses.<sup>5</sup>

*JLR*

## **Transportation and Motor Vehicles; proof of insurance for a permissive driver**

Vehicle Code § 16050.5 (new).

SB 2215 (Robbins); 1990 STAT. Ch. 602

Existing law requires every owner or driver of a motor vehicle to carry automobile or motor vehicle liability insurance.<sup>1</sup> Furthermore, drivers involved in accidents that must be reported<sup>2</sup> to the Department of Motor Vehicles (DMV) are required to prove that they possess motor vehicle liability insurance.<sup>3</sup> If a driver who is operating the vehicle with the owner's permission is involved in a reportable accident, Chapter 602 requires the owner of the motor vehicle to provide evidence of insurance coverage, upon request, to the driver and the DMV.<sup>4</sup>

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5. *Id.* §§ 13004.1, 14610.1 (enacted by Chapter 170) (the violation of either of these sections is a misdemeanor punishable by a minimum fine of \$500). *See generally id.* § 40000.11 (amended by Chapter 170) (listing the violations of occupational licensing and business regulations that represent misdemeanors).

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1. *See* CAL. VEH. CODE § 16020 (West Supp. 1990) (required maintenance of financial responsibility). The public policy of California demands that an insurer of a vehicle extend their insurance to a driver operating a vehicle with the owner's permission. *Stolte, Inc. v. Seaboard Surety Co.*, 250 Cal. App. 2d 169, 172, 58 Cal. Rptr. 477, 479 (1967).

2. *See* CAL. VEH. CODE § 16000 (West Supp. 1990) (listing motor vehicle accidents that must be reported).

3. *Id.* §§ 16028, 16050-16057 (establishment of proof of financial responsibility).

4. *Id.* § 16050.5 (enacted by Chapter 602). The information must be provided if requested, whenever the DMV is required to determine if the driver operating the vehicle with the owner's permission meets the financial responsibility requirements of California Vehicle Code section 16020. *Id.*

## **Transportation and Motor Vehicles; public and emergency vehicles--safety regulation exceptions**

Vehicle Code § 34500.2 (new); § 35002 (amended).  
AB 3424 (Lancaster); 1990 STAT. Ch. 899

Existing law exempts vehicles owned, operated, or rented by a state agency, county flood control district, or a flood control and water conservation district from size, weight, and load restrictions under limited circumstances while responding to an emergency.<sup>1</sup> Under Chapter 899, this waiver applies to a public agency's<sup>2</sup> vehicles, and, under limited circumstances, is extended to vehicles returning from, in addition to responding to, an emergency.<sup>3</sup>

Under existing law, the California Highway Patrol Department must regulate the safe operation of specified vehicles.<sup>4</sup> Chapter 899 exempts from further inspection a public agency owned and operated vehicle used during an emergency, provided the vehicle was inspected as specified<sup>5</sup> within the past twenty-four hours.<sup>6</sup>

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1. CAL. VEH. CODE § 35002(c) (amended by Chapter 899). The vehicle may be operated as needed if verbal permission from the appropriate highway authority is obtained prior to use and a written permit is obtained within three days of the conclusion of the emergency. *Id. See id.* (definition of emergency). *See also id.* § 35780 (West Supp. 1990) (permit application and issuance process explained).

2. *See* CAL. GOV'T CODE §§ 20009-20009.12 (West Supp. 1990) (definition and scope of public agencies).

3. CAL. VEH. CODE § 35002(c) (amended by Chapter 899). The authorization applies to vehicles "owned, operated, or rented by a public agency." *Id. See id.* (description of circumstances authorizing the waiver).

4. *Id.* § 34500 (West Supp. 1990).

5. *See* CAL. CODE REGS. tit. 13, § 1215(a) (1988) (description of vehicle inspection requirements).

6. CAL. VEH. CODE § 34500.2 (enacted by Chapter 899). All vehicles used during an emergency must be inspected immediately upon the emergency's termination. *Id.*



## Transportation and Motor Vehicles; railroad service- -abandonment or discontinuance

Public Utilities Code § 7532.5 (new).  
AB 2550 (Clute); 1990 STAT. Ch. 197

Existing law authorizes the Public Utilities Commission (PUC) to order railroad corporation to provide a connection or spur.<sup>1</sup> Under Chapter 197, every railroad corporation is now required to notify the affected community and shippers ninety days prior to filing the application with the PUC to discontinue or abandon a spur.<sup>2</sup> In the event of protest<sup>3</sup> by the community or shippers, the PUC must hold a public hearing in the affected locale before allowing the abandonment or discontinuance of the spur.<sup>4</sup>

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1. CAL. PUB. UTIL. CODE § 765 (West 1975). The PUC is authorized to order a connection after the railroad corporation receives an application by a shipper or receiver of railroad freight, so long as the PUC determines that the connection is reasonably practicable, a justifiable expense, and is capable of being installed without materially increasing the hazard of the operation of the railroad. *Id.* § 560.

2. *Id.* § 7532.5(a) (enacted by Chapter 197). The provisions of Chapter 197 apply to any industrial, team, switching, or side track providing intermodal service. *Id.* See 49 U.S.C. § 10907(b)(1) (1982). The Interstate Commerce Commission does not have authority over the abandonment or discontinuance of a spur, industrial, team, switching, or side tracks, if the tracks are located solely intrastate. *Id.* See also *Illinois Commerce Comm'n v. Interstate Commerce Comm'n*, 879 F.2d 917 (D.C. Cir. 1989) (holding that the Interstate Commerce Commission does not have jurisdiction over the abandonment of the intrastate spurs and the regulatory authority of the states applies); *Id.* at 917, 924 (spurs, unlike railroad lines, are not operated as a component of the entire railroad system and instead, are solely local).

3. See CAL. PUB. UTIL. CODE § 7532.5(b) (enacted by Chapter 197). The protest must be in writing and constitutes prima facie proof that the abandonment or discontinuance will adversely affect the community or shipper. *Id.*

4. *Id.* Before authorization of abandonment or discontinuance can be allowed, the PUC must determine the following: (1) The profitability of the railroad service; (2) the negative impact on the environment; and (3) the negative impact on the affected community and shippers, considering the availability of alternative transportation. *Id.* § 7532.5(c) (enacted by Chapter 197). The legislature appears to be concerned that abandonment or discontinuance of railroad service has an unfavorable impact on the relevant economy, environment, and energy resources. 1990 Cal. Stat. ch. 197, sec. 1, at \_\_\_\_\_. See California Public Utilities Commission Investigation No. 89-11-002 (July 6, 1990). The author introduced Chapter 197 after testifying of the necessity for a legislative remedy during the PUC investigation into the closure of spurs in the community of Blythe. *Id.*

## **Transportation and Motor Vehicles; removal of abandoned vehicles from private property**

Vehicle Code § 22658 (amended).

AB 2789 (Quackenbush); 1990 STAT. Ch. 998

Support: Santa Clara County Farm Bureau, California Farm Bureau Federation.

Existing law allows owners or lawful possessors of private property to have an illegally parked vehicle removed from the property, as long as one of the following conditions is satisfied: (1) There is an appropriate warning sign displayed,<sup>1</sup> or (2) the vehicle is parked on a single-family dwelling lot.<sup>2</sup> Under existing law, the person must first notify the police or sheriff, whichever is appropriate.<sup>3</sup>

Chapter 998 authorizes a private property owner, or lawful possessor, to have a vehicle removed from the property even if no warning sign is displayed, as long as one of the following conditions is satisfied: (1) Ninety-six hours have elapsed since the vehicle was issued a parking violation notice,<sup>4</sup> or (2) twenty-four hours have elapsed since the local law enforcement authority was notified, and the vehicle is unfit for safe operation.<sup>5</sup>

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1. The sign must: (1) Measure at least 17 by 22 inches; (2) contain lettering of at least one inch in height; (3) prohibit public parking and warn potential violators that vehicle owners will bear the cost of removal; and (4) include the local traffic law enforcement agency's telephone number. CAL. VEH. CODE § 22658(a)(1) (amended by Chapter 998). The sign may also warn that violators may be issued citations. *Id.*

2. *Id.* § 22658(a)(4) (amended by Chapter 998).

3. *Id.* § 22658(a) (amended by Chapter 998). Notice may be made by phone or, if impractical, "by the most expeditious means available." *Id.*

4. *Id.* § 22658(a)(2) (amended by Chapter 998).

5. *Id.* § 22658(a)(3) (amended by Chapter 998). The vehicle is considered unsafe if it lacks an engine, transmission, wheels, tires, doors, windshield, or other major component required for safe highway operation. *Id.*

## **Transportation and Motor Vehicles; reporting recovery of stolen vehicles**

Vehicle Code § 10500 (amended).  
AB 2717 (Pringle); 1990 STAT. Ch. 337

Existing law requires a peace officer,<sup>1</sup> upon learning of the recovery of a stolen, taken, or unlawfully driven<sup>2</sup> vehicle,<sup>3</sup> or the recovery of license plates for any lost or stolen vehicle, to immediately notify the original reporting police agency.<sup>4</sup> Under Chapter 337, the original reporting police agency must notify the reporting party within forty-eight hours of receipt of this information.<sup>5</sup>

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## **Transportation and Motor Vehicles; restriction of drivers' licenses**

Vehicle Code § 16078 (new); §§ 16072, 16077 (amended).  
AB 2817 (Bane); 1990 STAT. Ch. 1407  
AB 3470 (Burton); 1990 STAT. Ch. 1410  
Support: California Peace Officer's Association  
Opposition: California Highway Patrol

Under existing law, the Department of Motor Vehicles (DMV)

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1. See CAL. PENAL CODE § 830 (West Supp. 1990) (definition of peace officer).  
2. See CAL. VEH. CODE § 10851 (West Supp. 1990) (explanation of theft and unlawful driving or taking of a vehicle).  
3. See *id.* § 670 (West 1987) (definition of vehicle).  
4. *Id.* § 10500(a) (amended by Chapter 337).  
5. *Id.* § 10500(a) (amended by Chapter 337). California Vehicle Code section 10652.5 applies if the recovered vehicle is subject to parking or storage charges. *Id.* § 10500(b) (amended by Chapter 337). See *id.* § 10652.5 (West Supp. 1990) (explanation of motor vehicle storage fees for a vehicle not stored under the authority of the judicial process).

may suspend a driver's license if the licensee is involved in an accident and fails to show proof of financial responsibility<sup>1</sup> while driving an automobile.<sup>2</sup> Under these circumstances and upon application of the driver, the DMV may issue a restricted license in lieu of a suspended license.<sup>3</sup> A restricted license permits driving to and from work and work-related driving.<sup>4</sup> If there are no other means of transporting a minor<sup>5</sup> dependent<sup>6</sup> of the driver's immediate family to and from a primary or secondary<sup>7</sup> school, Chapter 1407 allows the DMV to issue a restricted license for this type of travel.<sup>8</sup>

Existing law also permits the DMV to issue a restricted license to an applicant who has a serious health problem that requires extended and recurring medical treatment.<sup>9</sup> Chapter 1410 allows the DMV to issue a restricted license to a driver for transporting an immediate family member with a serious health problem requiring medical treatment, provided there are no other means of adequate transportation available.<sup>10</sup> Additionally, Chapter 1410 extends the medical exception to include mental health treatments, and to allow

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1. See CAL. VEH. CODE § 16021 (West Supp. 1990) (establishing financial responsibility). See also *id.* §§ 16020 (required maintenance and evidence of financial responsibility); 16030 (negative verification of financial responsibility); 16034 (filing proof of financial responsibility).

2. *Id.* § 16070.

3. *Id.* § 16072(a) (amended by Chapter 1407). The DMV may only issue a restricted license if the applicant pays \$250 and proves financial responsibility. *Id.*

4. *Id.* § 16072(a)(1)-(2) (amended by Chapter 1407) (conditions of the work travel exception).

5. See *id.* § 17700 (West Supp. 1990) (definition of a minor).

6. See CAL. REV. & TAX. CODE § 17056 (West Supp. 1990) (definition of dependent).

7. See CAL. EDUC. CODE § 52 (West 1978) (definition of a secondary school).

8. CAL. VEH. CODE § 16072(a)(3) (amended by Chapter 1407). The principal or chief administrative officer of a minor dependent's primary or secondary institution must state in writing to the DMV that the child is enrolled there, and that no school bus or other form of public transportation exists. *Id.*

9. *Id.* § 16077(b) (amended by Chapter 1410) (applicant must pay a \$50 fee, a \$200 fine, show proof of financial responsibility, and provide documentation signed by the treating physician or surgeon).

10. *Id.* § 16077(a) (amended by Chapter 1410). The medical treatment must be of a prolonged and repetitive nature. *Id.* The suspended driver must show documentation from the treating physician and surgeon in order to receive the restricted license. *Id.* 16077(b) (amended by Chapter 1410).

licensed psychotherapists<sup>11</sup> to sign applications for restricted licenses.<sup>12</sup>

*GJK*

## **Transportation and Motor Vehicles; seat belt requirements**

Vehicle Code § 27315 (amended).

SB 1757 (Kopp); 1990 STAT. Ch. 585

Support: California State Automobile Association, California Peace Officers' Association, California Highway Patrol.

Existing law requires every owner or operator of a private passenger motor vehicle<sup>1</sup> operated on a highway<sup>2</sup> to maintain safety belts in good working order for the use of all vehicle occupants.<sup>3</sup> Chapter 585 requires that owners and operators of taxicabs<sup>4</sup> and limousines for hire maintain working safety belts for all vehicle occupants.<sup>5</sup>

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11. See CAL. BUS. & PROF. CODE § 2903 (West 1990) (definition of psychotherapy). See also *id.* § 2902(b) (a psychotherapist is included within the definition of psychologist).

12. CAL. VEH. CODE § 16077(b) (amended by Chapter 1410).

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1. See CAL. VEH. CODE § 27315(e) (amended by Chapter 585) (definition of private passenger motor vehicle).

2. See *id.* § 360 (West 1987) (definition of highway).

3. *Id.* § 27513(f) (amended by Chapter 585). Safety belts must comply with the United States Department of Transportation vehicle safety standards. *Id.* See 49 C.F.R. §§ 571.209, 571.210 (1989) (Department of Transportation standards for safety belts).

4. See CAL. VEH. CODE § 27908 (West 1985) (definition of taxicab).

5. *Id.* § 27513(f) (amended by Chapter 585). Only 55.5% of taxicabs had accessible rear seat belts according to a 1989 survey. Davis, *The Inaccessibility of Seat Belts in Taxicabs*, AM. J. OF PUB. HEALTH, Mar. 1989, at 330. See *McNeil v Yellow Cab Co.*, 85 Cal. App. 3d 116, 118, 147 Cal. Rptr. 733, 734 (1978) (observing that it was a matter of common sense that the absence of a seat belt in rear seat of taxicab constituted proximate cause of passenger's injuries).

## **Transportation and Motor Vehicles; speed limit-- senior centers**

Vehicle Code §§ 22352, 22357, 22358.4 (amended).

SB 1860 (Kopp); 1990 STAT. Ch. 542

Support: City of San Bruno

Existing law sets forth maximum speed limits for public highways.<sup>1</sup> A speed limit of twenty-five miles per hour applies when passing a school premises that borders a highway.<sup>2</sup> Existing law also authorizes local authorities to decrease the local speed limit near a school to twenty or fifteen miles per hour, when justified by an engineering and traffic survey.<sup>3</sup>

Chapter 542 imposes a speed limit of twenty-five miles per hour when passing a senior citizen facility<sup>4</sup> bordering a street<sup>5</sup> posted with a "senior warning sign."<sup>6</sup> Chapter 542 also permits local authorities to decrease the local speed limit near a senior citizen's facility to either twenty or fifteen miles per hour.<sup>7</sup>

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1. CAL. VEH. CODE § 22349 (West Supp. 1990) (maximum highway speed limit). *See also id.* § 22356 (increase of freeway speed limit).

2. *Id.* § 22352(b)(2) (amended by Chapter 542) (requiring "school" warning signs giving notice of reduced speed limit when children would most likely be present). *See also id.* § 22357.1 (West Supp. 1990) (regarding 25 mile per hour speed limit near park playgrounds).

3. *Id.* § 22358.4 (amended by Chapter X) (providing that the decreased speed limit is not effective until signs are posted on the highway or, in the case of a state highway, the ordinance passes the Department of Transportation's approval and signs are posted).

4. *See id.* § 22352(b)(3) (amended by Chapter 542) (defining a senior citizen facility as a senior center or other facility primarily used by senior citizens).

5. *See id.* (applying to all streets other than state highways).

6. *Id.* (a local authority must first determine that signs should be erected and may then decide whether to secure private donations or use other available funds to erect the "senior" warning sign).

7. *Id.* § 22358.4 (amended by Chapter 542) (the decision to lower the speed limit must be justified by an engineering and traffic survey).

## **Transportation and Motor Vehicles; towing and storage charges**

Vehicle Code § 22655.5 (amended).  
AB 3410 (Polanco); 1990 STAT. Ch. 1515

Under existing law, a peace officer<sup>1</sup> may remove a motor vehicle<sup>2</sup> from public or private property when the officer has probable cause<sup>3</sup> to believe that the vehicle was used in committing a public offense<sup>4</sup> or that the vehicle contains, or is itself, evidence of a crime.<sup>5</sup> Existing law prohibits attaching a lien on a removed vehicle unless the vehicle was used by the alleged perpetrator of a crime with the permission of the owner.<sup>6</sup> Chapter 1515 clarifies that the owner of a stolen vehicle that has been removed for investigation is not liable for towing and storage charges.<sup>7</sup>

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1. See CAL. PENAL CODE § 830 (West Supp. 1990) (definition of a peace officer).
  2. See CAL. VEH. CODE § 415 (West 1987) (definition of motor vehicle).
  3. See *People v. Gorak*, 196 Cal. App. 3d 1032, 1039, 242 Cal. Rptr. 307, 311 (1987) (probable cause involves a practical, common sense determination that there is a fair probability evidence of a crime is present).
  4. See CAL. PENAL CODE § 15 (West 1988) (definition of public offense).
  5. CAL. VEH. CODE § 22655.5(a) (amended by Chapter 1515).
  6. *Id.* § 22655.5(b)(1) (amended by Chapter 1515).
  7. *Id.* § 22655.5(b)(1) (amended by Chapter 1515). Upon the prosecutor's request, existing law allows the court to order the perpetrator of the crime, if convicted, to pay the costs of towing and storage. *Id.* § 22655.5(c) (amended by Chapter 1515). Any towing or storage charges, for which the owner is not responsible, must be paid by the public agency which authorized the removal, or by the prosecuting agency which ordered the storage of the vehicle. *Id.* § 22655.5(a)(3) (amended by Chapter 1515).

## **Transportation and Motor Vehicles; two-way left-turn lanes**

Vehicle Code § 21460.5 (amended).

AB 2769 (Epple); 1990 STAT. Ch. 232

Sponsor: California Peace Officers' Association

Existing law permits the Department of Transportation and local authorities to designate two-way left-turn lanes with parallel solid and broken lines near the center of the highway.<sup>1</sup> A motorist may drive in these lanes only when turning left onto or from a highway, or when making an authorized U-turn.<sup>2</sup> Chapter 232 prohibits motorists from driving in excess of 200 feet in two-way left-turn lanes prior to and during a left-turn from the highway or merger into adjacent traffic.<sup>3</sup>

*FPC*

## **Transportation and Motor Vehicles; vehicle removal**

Vehicle Code § 22651.2 (new).

SB 819 (Robbins); 1990 STAT. Ch. 73

Existing law authorizes the removal of motor vehicles from highways in specified situations.<sup>1</sup> Chapter 73 expands existing law to permit removal of a vehicle parked on a highway or on public

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1. CAL. VEH. CODE § 21460.5(a), (b) (amended by Chapter 232). Either painted lines or raised pavement markers may be used. *Id.* § 21460.5(e) (amended by Chapter 232).

2. *Id.* § 21460.5(c) (amended by Chapter 232). Making a U-turn from a two-way left-turn lane in a business district is not authorized. *People v. London*, 84 Cal. App. 3d Supp. 18, 22, 148 Cal. Rptr. 853, 856 (1978). *See also* CAL. VEH. CODE § 21460.5(d) (amended by Chapter 232) (driving across a left-turn lane is not prohibited).

3. *Id.* § 21460.5(c) (amended by Chapter 232).

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1. *See* CAL. VEH. CODE §§ 22651-22669 (West 1985 & Supp. 1990) (listing specified situations).



land if the main purpose in parking is for specified types of advertisement.<sup>2</sup> Additional requirements dictated by Chapter 73 must also be satisfied prior to removal.<sup>3</sup> Chapter 73 does not apply, however, to vehicles advertising a business carried on through the use of the vehicle.<sup>4</sup>

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## **Transportation and Motor Vehicles; vehicles--records and driving offenses**

Vehicle Code §§ 1808.23, 23199 (new); §§ 1808.22, 1808.46, 13353, 13353.2, 13353.3, 13353.4, 13353.6, 13353.7, 13551, 13557, 13558, 13559, 14100, 14905, 23157, 23158.2, 23158.5, 23206.5, 23210 (amended).

SB 1150 (Lockyer); 1990 STAT. Ch. 431

Support: MADD, California Association of Drinking and Driving Treatment Program, California Highway Patrol, California Trial Lawyers Association, State Bar of California  
(*Effective July 25, 1990*)

AB 3796 (Bane); 1990 STAT. Ch. 1635  
(*Effective September 30, 1990*)

Existing law authorizes the Department of Motor Vehicles (DMV) to administratively suspend<sup>1</sup> a person's driver's license<sup>2</sup>

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2. *Id.* § 22651.2(a)(1) (enacted by Chapter 73). The specified types of advertisement include publicizing an event or function to the public that is to be held on private or public property. *Id.*

3. *Id.* § 22651.2(a)(2), (3) (enacted by Chapter 73). The requirements are that the vehicle must have been previously issued a parking violation along with a warning that a subsequent violation may result in removal, and the Department of Motor Vehicles must have mailed the registered owner of the vehicle a notice of possible removal in the event of a subsequent violation. *Id.*

4. *Id.* § 22651.2(b) (enacted by Chapter 73). *See id.* § 22651.2(c) (enacted by Chapter 73) (California Vehicle Code section 22852, which provides for the storage, notice, and hearing regarding the impounded vehicle, applies to Chapter 73).

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1. *See* CAL. VEH. CODE § 13102 (West 1987) (definition of suspension).

2. *See id.* § 310 (definition of driver's license).

upon refusal to undergo, or failure to complete, a chemical test<sup>3</sup> at the request of a peace officer<sup>4</sup> who has reasonable cause<sup>5</sup> to believe that the person was driving under the influence (DUI) of drugs or alcohol.<sup>6</sup> Chapter 431 increases the period of license suspension from six months to one year.<sup>7</sup> Chapter 431 requires the DMV to administratively revoke<sup>8</sup> a person's driver's license upon refusal to submit to a chemical test if that refusal occurs within a specified time after a DUI suspension or revocation.<sup>9</sup> After January 1, 1992, persons holding a commercial driver's license will also be subject to license revocation under these circumstances.<sup>10</sup>

Chapter 431 additionally requires the DMV to immediately suspend the license of any person having a blood alcohol content of more than .08 percent while operating a motor vehicle.<sup>11</sup> Under Chapter 431, a the peace officer must serve notice of the order of suspension or revocation on a DMV-provided form.<sup>12</sup> An

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3. See *id.* § 23157 (West 1985) (definition of chemical test and who may be excused from submitting to one). See generally Note, *Shed Thou No Blood—The Forcible Removal of Blood Samples from Drunk Driving Suspects*, 60 S. CAL. L. REV. 1115 (1987) (suggesting that increased sanctions in the form of imprisonment and fines should be imposed on a person refusing to submit to a chemical test rather than forcibly removing blood samples).

4. See CAL. VEH. CODE § 40600(e) (West 1987) (definition of peace officer).

5. See *id.* § 40600(d) (definition of reasonable cause).

6. *Id.* § 13353(a)(1) (amended by Chapter 431). See *id.* §§ 312 (West 1987) (definition of drug); 109 (definition of alcoholic beverage). Cf. N.J. STAT. ANN. § 39:4-50.4(a) (West Supp. 1990) (\$250 fine in addition to suspension of driving privilege for refusal to submit to chemical test); ALASKA STAT. § 28.35.032(f)-(g) (1989) (minimum penalty for first refusal to submit to a chemical test is 72 consecutive hours imprisonment and minimum penalty of \$250). See also *Hernandez v. Department of Motor Vehicles*, 30 Cal. 3d 70, 78, 634 P.2d 917, 925, 177 Cal. Rptr. 566, 574 (1981) (upholding the constitutionality of a statute authorizing the suspension of a driver's license upon failure to submit to a chemical test).

7. CAL. VEH. CODE § 13353 (amended by Chapter 431).

8. See *id.* § 13101 (West 1987) (definition of revocation).

9. *Id.* § 13353(a)(2)-(3) (amended by Chapter 431) (revocation for two years if refusal to submit to chemical test occurs within seven years of a suspension or revocation related to driving under the influence (DUI), or revocation for three years if refusal occurs within seven years of two or more such suspensions or revocations).

10. *Id.* § 13353(e)-(f) (amended by Chapter 431). See *id.* § 15210(a) (West Supp. 1990) (definition of commercial driver's license).

11. *Id.* § 13353.2(a) (amended by Chapter 431) (also applies when person is in physical control of vehicle). Prior law provided for suspension when the blood alcohol content was .10%. See 1989 Cal. Legis. Serv. ch. 1460, sec. 7, at 5554 (West) (amending CAL. VEH. CODE § 13353.2(a)) (amended by Chapter 431). See also CAL. VEH. CODE §§ 13353.3 (West Supp. 1990) (period of license suspension); 415 (West 1987) (definition of motor vehicle).

12. CAL. VEH. CODE § 13353(b) (amended by Chapter 431).

endorsement on the notice of the order of suspension serves as a temporary driver's license.<sup>13</sup> Chapter 431 requires a person to give proof of financial responsibility,<sup>14</sup> pay the DMV a fee of \$100,<sup>15</sup> and be otherwise eligible for a driver's license,<sup>16</sup> before a suspended or revoked driver's license may be restored.<sup>17</sup>

Existing law allows a person whose license has been suspended or revoked to apply for a restricted driver's license to travel to and from an alcohol treatment program.<sup>18</sup> Chapter 431 extends this option to persons holding a commercial driver's license and operating a commercial vehicle<sup>19</sup> at the time of a violation.<sup>20</sup>

Existing law permits any person whose driving privilege is suspended or revoked for DUI-related reasons to request an administrative hearing.<sup>21</sup> Chapter 431 specifies that the only issue to be considered at this hearing is whether the peace officer had reasonable cause to believe the person had been driving under the influence.<sup>22</sup> Chapter 431 provides that the determination of the person's blood alcohol level is a civil matter that is independent of the evaluation of the person's guilt or innocence during an administrative hearing.<sup>23</sup> Chapter 431 also authorizes court postponement of suspension of a person's driving privileges in certain cases.<sup>24</sup>

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13. *Id.* § 23157(f) (amended by Chapter 431) (effective when officer takes possession of person's license upon refusal to submit to test; the form is valid for 45 days from the date of arrest).

14. *See id.* § 16430 (West Supp. 1990) (definition of proof of financial responsibility).

15. *Id.* § 14905 (amended by Chapter 431).

16. *Id.* § 13551(a),(b) (amended by Chapter 431). *See id.* §§ 12805-12809 (West 1987 & Supp. 1990) (grounds for refusing to issue license).

17. *Id.* § 13353.4(b) (amended by Chapter 431).

18. *Id.* § 13353.7 (amended by Chapter 431) *See id.* § 23161 (West Supp. 1990) (definition of alcohol treatment program).

19. *See id.* § 15210(b) (West Supp. 1990) (definition of commercial vehicle).

20. *Id.* § 13353.7(c) (amended by Chapter 431).

21. *Id.* § 13558(a) (amended by Chapter 431). *See id.* §§ 14100-14112 (West 1987 & Supp. 1990) (hearing procedures).

22. *Id.* § 13558(c)(2) (amended by Chapter 431).

23. *Id.* § 13353.2(e) (amended by Chapter 431). The blood alcohol level determination will have no collateral estoppel effect on any subsequent criminal prosecution. *Id.*

24. *Id.* § 23199 (enacted by Chapter 431). Suspension may be postponed until the completion of a prison term when a person is sentenced under any of the following California Vehicle Code sections: 23152 (unlawful to drive under the influence or addicted to any drug or alcohol; blood alcohol content of .08% creates rebuttable presumption of driving under the influence); 23153 (influence of alcohol and drugs, bodily injury to person other than driver, blood alcohol content);

Existing law provides that DMV records of residence addresses are confidential and may only be released to certain persons.<sup>25</sup> Under Chapter 431, an attorney may request residence address information from the DMV for use in a criminal or civil action,<sup>26</sup> provided that the attorney does the following: (1) States that the criminal or civil action relates directly to the use of the motor vehicle or motorcycle owned by the person whose address the attorney is requesting; (2) provides the case number, if available, or the names of expected parties; (3) uses the information only for furtherance of the case cited or action investigated; and (4) destroys the residence information if the action is not filed within a reasonable time.<sup>27</sup> The attorney may not request the information in order to sell the information,<sup>28</sup> and the DMV must notify every individual whose residence address has been requested.<sup>29</sup> Chapter

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23156 (separate offense for gross vehicular manslaughter while intoxicated or vehicular manslaughter involving alcohol or drugs); 23165 (increased penalty for DUI offense when the offense occurs within seven years of a previous DUI offense); 23166 (probation terms for any person convicted of more than one DUI offense within seven years); 23170 (increased penalty for two or more DUI convictions within seven years); 23171 (probation terms for person convicted under California Vehicle Code section 23170); 23175 (punishment for three or more DUI convictions within seven years); 23176 (probation terms for a person convicted of violating California Vehicle Code section 23175); 23180 (punishment for first conviction for proximately causing bodily injury to someone while DUI); 23181 (probation terms for a person convicted of California Vehicle Code section 23180); 23182 (enhanced punishment for causing bodily injury or death while driving or death while driving in violation of California Vehicle Code section 23153); 23185 (punishment for violation of causing proximately causing bodily injury while DUI within seven years after a conviction for reckless driving); 23186 (probation for person convicted of violating California Vehicle Code section 23185); 23190 (punishment for two or more convictions of proximately causing bodily injury while DUI within seven years); or 23191 (probation terms for conviction under California Vehicle Code section 23190).  
*Id.*

25. *Id.* § 1808.21 (West Supp. 1990). This information may be released to a financial institution or insurance company licensed to do business in California, provided that the company states under penalty of perjury that the company has procured a written waiver of California Vehicle Code section 1808.21, which requires DMV records to be kept confidential and not released except in specified instances, from the person whose address is requested. *Id.* § 1808.22 (amended by Chapter 431).

26. *Id.* § 1808.22(c) (amended by Chapter 431) (attorney must state under penalty of perjury that the information is necessary for representing a client in a criminal or civil action which directly involves the use of motor vehicle in question).

27. *Id.* § 1808.22(c)(1)-(4) (amended by Chapter 431).

28. *Id.* § 1808.22(c)(5) (amended by Chapter 431). A knowing violation of these provisions is a misdemeanor, and a knowing violation of these provisions in furtherance of a crime is subject to the same penalties as that crime. *Id.* § 1808.22(d) (enacted by Chapter 431).

29. *Id.* § 1808.22(c)(6) (amended by Chapter 431) (notification must be made within 10 days of information request).

1635 authorizes the release of DMV residence records to licensed vehicle dealers and manufacturers provided that the requested information is used solely for the purpose of safety, warranty, emission, or product recall, or in order to complete registration documents.<sup>30</sup> Under Chapter 1635, any person who obtains information for an unauthorized purpose<sup>31</sup> will be liable to the DMV for up to \$100,000 in civil penalties.<sup>32</sup>

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30. *Id.* § 1808.23(a)-(b) (enacted by Chapter 1635).

31. *See id.* § 1808.22 (amended by Chapter 431) (authorized uses of residence address information).

32. *Id.* § 1808.46 (amended by Chapter 1635).